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Loophole hurts Sunshine Act

Aug 4, 2020



The Pennsylvania Office of Open Records states, “(t)he Pennsylvania Sunshine Act, 65 Pa. C.S. 701-716, requires agencies to deliberate and take official action on agency business in an open and public meeting.” The Pennsylvania Newsmedia Association states, “The purpose of the Sunshine Act is to allow the public to witness agency decisions and ... with limited exceptions, the discussions leading to those decisions.”

Friends of White’s Woods discovered that from June 2019 through March 2020, the White Township supervisors went into executive session to approve motions to: 1. create a contract for Millstone Land Management LLC; 2. to execute a consultant agreement with Millstone Land Management for management of invasive species and timber; 3. to authorize preliminary development of a cell tower on White’s Woods property and; 4. to award a contract to Millstone for woodlot management on a 50-acre tract within White’s Woods Nature Center.

Friends of White’s Woods and their legal consultant, Fair Shake Environmental Legal Services, contend that none of these executive sessions complied with the Sunshine Law. Motions were made, votes were taken and contracts were awarded out of public view. On May 22, Friends of White’s Woods filed a legal complaint alleging violations of the Sunshine Act.

Unfortunately, the courts have provided a legal “cure” for any Pennsylvania Sunshine violation. All that is needed is to ratify any invalid decision at a subsequent public meeting. That is what occurred on July 20, during a special meeting called by the supervisors.

In public, they “approved, ratified and announced” all of the motions cited as potential Sunshine Act violations in the filed complaint.

Allowing agencies to “cure” violations so easily deprives the public of any ability to understand how decisions were reached. And it provides very little incentive for agencies to follow the strict requirements of the Sunshine Act.

Guilt or innocence should be decided by a judge, not by the defendants or by their lawyer. By “curing” the charges under the Sunshine Law complaint, the supervisors have absolved themselves of that part of the complaint. If their original actions were not questionable, why seek a “cure?”

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